

(1921) 08 MAD CK 0019
In the Madras High Court

C. Kuppuswami Mudaliar and Others	APPELLANT
Vs	
Y. Subramaniam Chettiar and Others	RESPONDENT

Date of Decision : 11-08-1921

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : (1922) 16 LW 927 : (1921) 41 MLJ 545

Hon'ble Judges : Ramesam, J; Oldfield, J

Bench : Full Bench

Judgement

Oldfield, J.—We have heard argument at considerable length on the facts and law involved in this appeal. But, as the majority of the issues raised will require consideration at the trial of the suit by the Lower Court, we enter on no detailed discussion of them.

2. There is, we think, no doubt that the Lower Court had power to supersede 1st defendant, notwithstanding that he was appointed Manager by the temple Committee and was only removeable after regular enquiry. Such action was approved in K.A. Veeraraghava Tathachariar and Others Vs. R. Krishnasamy Thathachariar and Others, in similar circumstances against a trustee and manager, who was no doubt hereditary but who also would be removable only in the same way.

3. As regards the facts we have been taken carefully through the history of 1st defendant's incumbency and in particular of the last ten days, during which the important Chithrai festival should have been celebrated, and in our opinion it is just and convenient in the interests of the public, whom the plaintiffs represent, and of the institution that the immediate management should be in other hands, and, should, so far as the circumstances permit, be under the supervision and control of the Court during the pendency of the suit.

3. We therefore dismiss the appeal and the connected petition, except that we add to the lower Court's order appealed against the provision already made in

our order of the May 1921 on C.M.P. No. 1618 of 1921 for the maintenance, subject to the Receiver's right and duty to consult the Court, when necessary, of his subordination to the Temple Committee.

4. Appellants Will pay respondents costs in the appeal.

Ramesam, J.

5. I agree. The case in *Veeraragava Thatha-chariar v. Krishnaswami Thathachardar* (1919) 20 M.L.J. 638 shows that in a suit u/s 92 of the CPC though there is no prayer to remove a trustee, a receiver" might be appointed during the pendency of the suit. The reason is, that, in this class of suits, it is not merely the defendants' rights that are the subject of consideration by the Courts but the interests of a public institution of far greater importance than the defendants' rights. It may be that the power of a temple committee to remove a trustee appointed by them is limited but it does not follow that a court's powers over the trustee are similarly fettered. Having regard to all the facts placed fully before us, I concur with my learned brother in thinking that the receiver should continue to be in charge of the institution till the suit is disposed of. I agree with the order of my learned brother.